IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THURSDAY, THE THIRD DAY OF NOVEMBER
TWO THOUSAND AND ELEVEN

PRESENT
**HON'BLE THE ACTING CHIEF JUSTICE**
**GHULAM MOHAMMED**
**AND**
**THE HON'BLE SRI JUSTICE NOOTY RAMA MOHANA RAO**

**WRIT PETITON No. 25950 OF 1999**

Between:

Podduturi Chinna Veeradas and others

**..... Petitioners**

AND

Government of Andhra Pradesh,
Rep.by its Secretary,
Irrigation Department, CADA,
Secretariat, Hyderabad and others

**.....Respondents**

**The Court made the following :**

**ORDER**: (*per Ghulam Mohammed, Hon'ble the Acting Chief Justice*)

This writ petition seeks a writ of mandamus to declare Section 11 and 23(1) of the Land Acquisition Act

as amended by the Nagarjuna Sagar Project (Acquisition of Lands) Act, 1956, as ultra vires the second proviso of Article 31(A) of the Constitution of India and to consequently direct the respondents to pay the compensation as per the market value under the Land Acquisition Act, 1894.

The factual matrix in a narrow compass is that different extents of land belonging to the petitioners herein were acquired for laying approach road. Urgency clause under Sec. 17 of the Land Acquisition Act was invoked and possession of the land was taken and an award came to be passed under the amended provisions of Nagarjuna Sagar Project (Acquisition of Lands) Act, 1956, which provides for payment of compensation for the lands acquired for any purpose connected with the Nagarjuna Sagar Project as on either 1.7.1953 together with the value of the improvement to the land effected after that date and before the date of publication of notification or the date of publication of the notification, whichever is less.

It is the case of the petitioners that the determination of the market value for the lands acquired in the year 1992 under the provisions of Nagarjuna Sagar Project (Acquisition of Lands) Act, 1956 is unsustainable in view of a catena of decisions of the Apex Court and this court more particularly when the present acquisition is not in

any way connected with the Nagarjuna Sagar Project. It is further their case that they have already filed applications under Sec.18 of the Land Acquisition Act before the Referring Officer for determination of the market value under the provisions of the Land Acquisition Act, 1894.

The Government of Andhra Pradesh, aggrieved by the judgment dated 31.8.1979 passed in W.P. No. 2110 of 1979 which assailed the constitutional validity of the Nagarjuna Sagar Project (Acquisition of Lands) Act, 1956, has preferred Civil Appeal Nos.3274-75 of 2003 before the Apex Court and the Apex Court by judgment dated10.8.2005 has categorically observed as under:

> *"…We shall first deal with the plea relating to the maintainability of the writ petition filed after long passage of time. In a catena of decisions this Court has held that High Court should not entertain writ petitions when there is delayed challenge to notification under Section 4(1) and declaration under Section 6 of the Act.*
>
> *The High Court was moved in these matters by writ petitions long after Section 4(1) Notification and Section 6 declarations were made. On that ground alone the writ petitions should not have been entertained. Additionally, the respondents clearly accepted that references in terms of Section 18 were pending. The High Court has not even indicated any reason as to why the writ petitions were being entertained when the references in terms of Section 18 were pending. On that score also the High Court's judgment becomes unsustainable.*
>
> *We, therefore, set aside the judgment of the High*

*Court. The references which were pending and have been closed in view of the impugned judgment of the High Court shall be revived. In some of these cases also the fresh awards have been passed. They are set aside and the original reference stands revived. Only references which were pending on the date of the High Court judgment i.e. 14.3.1997 shall stand revived. Other claims and adjudications, if any, pursuant to the High Court's impugned order in these cases shall have no effect…"*

In the facts of the circumstances of the case and in view of the judgment of the Apex Court, it goes without saying that the references under Sec.18 of the Land Acquisition Act, which are said to have been filed by the petitioners and pending, shall stand revived.

The Writ Petition is accordingly allowed, directing to refer the applications of the petitioners filed under Sec.18 of the Land Acquisition Act for re-determination of the market value in terms of the judgment of the Apex Court. No order as to costs.

Ghulam Mohammed, ACJ.

Nooty Rama Mohana Rao, J.

November 3, 2011
MAS